

ATTENTION PCT LEGAL OFFICE

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CERTIFICATE OF MAILING

UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, Virginia 22213-1450

29 July 2003  
HUESCHEN AND SAGE

G. Patrick Sage  
Dated: 29 July 2003

PF96PCT

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Applicant : Jean Pierre GIRAUD & Roger NOBILET  
Serial No. : 09/869,768  
Filed : June 29, 2001  
Title : Dispenser of Objects  
Art Unit : 3651  
Examiner : Deborah D. WILLIAMS, Esq.

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Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

RENEWED PETITION UNDER 37 CFR § 1.47(a)

Responsive to the PCT Legal Division's (hereinafter the Office) April 29, 2003 dismissal of the applicants' PETITION UNDER 37 CFR § 1.47(a) filed February 5, 2003, the applicants renew their Petition as follows. The time for response is extended for one (1) month with this response by enclosure of the appropriate fee.

### **BACKGROUND**

On February 6, 2002, the USPTO issued a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC § 371, giving the applicants notice that the Oath or Declaration of the inventors MUST be furnished. On May 9, 2002 the applicants filed with the USPTO a Transmittal of Missing Parts under Certificate of Mailing, which Transmittal included:

**Transmittal of Missing Parts, and accompanying fee of \$130,  
Copy of Notice to File Missing Parts,  
Declaration and Power of Attorney,  
Petition under 37 CFR § 1.47, with accompanying evidence,  
Petition for two (2) month Extension, with accompanying \$400.00 fee.**

The date and contents of the filing are not in dispute.

On February 5, 2003 the applicants filed with the USPTO a Renewed Petition Under 37 CFR § 1.47(a) in response to the Office's September 18, 2002 Dismissal. The Renewed Petition included:

**A further Petition describing "facts which are relied on to establish that a diligent effort was made..." to contact the non-signing inventor and obtain his signature and concluding that the non-signing/non-responsive inventor "refuses to sign."**

**A translation of the evidence already of record including evidence of diligent efforts expended in an attempt to obtain the signature of the non-signing inventor. These include:**

**Registered Letter from the applicant, DOLISOS Laboratoires, to the non-signing inventor soliciting his signature on the Declaration and Power of Attorney dated January 30, 2002, with French Postal Receipt, such receipt acknowledged by signature of the non-signing inventor on February 1, 2002.**

**Follow-up Letter from the applicant, DOLISOS Laboratoires, to the non-signing inventor soliciting his signature on the Declaration and Power of Attorney dated February 21, 2002, with French Postal Receipt indicating that the non-signing inventor refused to claim the Letter on February 27, 2002.**

**Follow-up Letter from the applicant, DOLISOS Laboratoires, to the non-signing inventor soliciting his signature on the Declaration and Power of Attorney dated November 5, 2002, with French Postal Receipt, such receipt acknowledged by signature of the non-signing inventor on November 8, 2002.**

**Follow-up Letter from the applicant, DOLISOS Laboratoires, to the former employer of non-signing inventor (AIRSEC - Groupe CHEMIE) soliciting information and assistance regarding the non-signing inventor.**

**Response from AIRSEC - Groupe CHEMIE to the applicant, DOLISOS Laboratoires, explaining that the non-signing inventor's former employer has had no contact with the non-signing inventor and explaining that they have not been able to make contact with the non-signing inventor, dated November 18, 2002.**

The date and contents of the filing are not in dispute.

#### **R E M A R K S**

The applicants acknowledge the April 29, 2002 Office communication. The Office acknowledges the applicants' RENEWED PETITION and its contents. In dismissing the applicants' Renewed Petition of record, the Office finds fault with the applicants' "demonstration that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." MPEP Section 409.03(d).

That the applicants have submitted the "oath or declaration" to the inventor multiple times is not in dispute.

The Office now solicits evidence that the Specification was presented. Moreover, the Office solicits non-statutory and non-MPEP evidence that the applicants have given the non-signing inventor a deadline for complying, clearly stating that failure to comply would be interpreted as a refusal to sign.

With this response, the applicants are pleased to provide a copy of a Registered Letter from the applicants, Homeopathie DOLISOS, to the non-signing inventor, forwarding a complete copy of the US "patent application US-09/869,768", a complete copy of the "international application PCT/FR/03 317" from which the US application is derived, a "Declaration" for signature by the non-signing inventor for filing in the US application, the applicants' letter providing a deadline for response of June 20, 2003, and explaining that "Failure by yourselves to answer before that deadline will be deemed to be a refusal to sign." The correspondence is provided in its original French form along with a certified translation. Moreover, the applicants provide return postal receipt signed by the non-signing inventor acknowledging receipt. No answer or signed Declaration has been received from the inventor to date.

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Thus, as per the Office request, the applicants have provided a Petition by "a person having firsthand knowledge of the facts recited therein", that "a diligent effort was made..." to contact the non-signing inventor and obtain his signature, and that the inventor, when contacted, consistently refuses to sign the Declaration and Power of Attorney. In addition, the applicants have provided Certified translations of the evidence already of record, as well as additional evidence which has become available during the course of the prosecution of the instant application. And finally, the applicants have provided evidence that

the non-signing inventor has been provided with, and has received, a complete copy of the US and International Applications, along with an explanation that failure to sign and return the Declaration by a date certain will constitute a refusal to sign. It is submitted that the applicants have fulfilled, at least, the statutory requirement under 37 CFR § 1.47(a).

Accordingly, reconsideration and withdrawal of the dismissal of the Petition under 37 CFR § 1.47(a), and commencement of the examination of the instant application are all hereby respectfully solicited. It should be apparent that the undersigned attorney has made an earnest effort to comply with more than the statutory requirement. If he can be of assistance to the Office in the elimination of any possibly-outstanding insignificant impediment to immediate examination, the Office is respectfully invited to call him at his below-listed number for such purpose.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By:   
G. PATRICK SAGE

Dated: July 29, 2003  
Customer No.: 25,666  
500 Columbia Plaza  
350 East Michigan Ave.  
Kalamazoo, MI 49007-3856  
(269) 382-0030

Enclosures: Copy of June 3, 2003 correspondence forwarding a complete copy of the US and International Applications, along with an explanation that failure to sign and return the Declaration by a certain date would constitute a refusal to sign, Certified Translation of the same,

Fee for one (1) month extension in the form of our check no. 71795 for \$110.00, and

Return Postal Card Receipt.